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BEFORE THE

POSTAL RATE COMMISSION
WASHINGTON, DC 20268-0001

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OFFICE OF THE SECRETARY

SPECIAL SERVICES REFORM, 1996

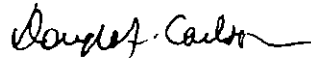
Docket No. MC96-3

DOUGLAS F. CARLSON
REPLY BRIEF

January 21, 1997

Pursuant to § 34 of the Rules of Practice, I, Douglas F. Carlson, hereby submit my reply brief in Special Services Reform, 1996 (Docket No. MC96-3).

Respectfully submitted,



Dated: January 21, 1997

DOUGLAS F. CARLSON

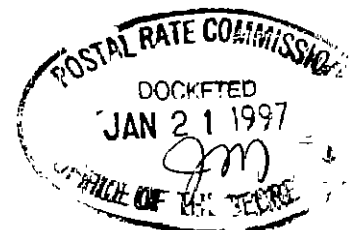


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I. INTRODUCTION

In its initial brief, the Postal Service advances solid arguments with respect to some of its proposals. However, for the proposed nonresident fee, the fee increase for return receipt, and the fee increase for postal cards, the Postal Service ignores a considerable amount of damaging evidence that cross-examination and intervenor testimony produced.

In my reply brief, I will rebut some of the Postal Service's weakest arguments. My failure to discuss other arguments, or arguments set forth in briefs from other participants,¹ should not necessarily be construed as acceptance of those arguments; rather, those arguments should be considered in conjunction with my initial brief.

II. NONRESIDENT FEE

The Postal Service's initial brief argues that the proposed nonresident fee for post-office boxes is reasonable, fair, and equitable. Initial Brief of the United States Postal Service at 66-69. However, in making this claim the Postal Service has completely ignored hundreds of pages of damaging cross-examination and intervenor testimony. Although written discovery began in July, the Postal Service still apparently has been unable to appreciate the magnitude of the unfairness and inequity of the proposed nonresident fee.

My initial brief discusses in detail the unfairness, inequity, and discriminatory nature of the nonresident fee. See Douglas F. Carlson Initial Brief at 2-30 (section II). In this reply brief, I will rebut certain specific problems with the Postal Service's latest attempt to justify the nonresident fee.

¹I have not received a copy of the brief of the American Bankers Association. I must mail my reply brief before the next postal delivery day, so I will not have an opportunity to review the American Bankers Association's brief prior to filing this reply brief.

A. THE POSTAL SERVICE'S ARGUMENT THAT NONRESIDENT BOXHOLDERS PLACE A HIGHER VALUE ON BOX SERVICE THAN RESIDENT BOXHOLDERS IS FLAWED.

In its initial brief, the Postal Service argues that "boxholders who choose to obtain box service somewhere outside their area of residence place a greater value on box service than do residents" [citations omitted]. Postal Service Initial Brief at 68.² In support of the argument, the Postal Service points out that "If such customers did not, they would travel less instead of more and obtain box service at a location closer to their residences." *Id.* The Postal Service's argument obscures the issue.

Assuming customers behave rationally, the Postal Service has correctly observed that a nonresident boxholder places a higher value on his nonresident box than he would place on a resident box. From this premise, the Postal Service then jumps to the conclusion that a higher fee for nonresidents is justified. However, assuming customers behave rationally, it is equally true that a resident boxholder places a higher value on his resident box than he would place on a nonresident box; otherwise, he would have obtained a nonresident box. Following the Postal Service's original line of reasoning, resident boxholders value resident box service higher than they value nonresident box service, so resident boxholders should pay higher fees than nonresident boxholders. If the Commission followed the Postal Service's reasoning, it would be faced with an unresolvable paradox in setting box fees.

The Postal Service's argument and comparison are useless because they miss a key distinction. The correct question is whether, at a particular post office, the nonresident boxholders at that post office place a higher value on their nonresident boxes at that post office than the resident boxholders place on

²If proven, this argument would strengthen the Postal Service's claim that the fee would be justified under the value-of-service criterion of 39 U.S.C. § 3622(b)(2).

their resident boxes at that same post office. For example, we could draw the conclusion about comparative value that the Postal Service desires to make to strengthen its case under § 3622(b)(2) if and only if the nonresident boxholders in, for example, Potomac, Maryland, place a higher value on their nonresident boxes in Potomac than the resident boxholders place on their resident boxes in Potomac.

The comparison that I have explained is logically sound. This comparison is, in fact, implicit in the discussion in my initial brief of the paucity of evidence supporting the Postal Service's claim about the comparative value that nonresident and resident boxholders place on their boxes. See Carlson Initial Brief at section II.A.1. and II.D. One specific point from that discussion should be repeated, given the Postal Service's comment that nonresident boxholders travel a greater distance than resident boxholders to obtain their mail. As I argued in my initial brief at page 6, resident boxholders at a particular location may place a higher value on their resident boxes than the nonresident boxholders place on their nonresident boxes precisely because the resident boxes are closer to home. The Postal Service's claims about value are pure speculation, and I have contradicted this speculation with counterarguments that are at least as plausible as the Postal Service's assertions.

B. THE POSTAL SERVICE MISUSED MY TESTIMONY ABOUT THE VALUE THAT I PLACE ON BOX SERVICE.

Apparently in support of its argument that nonresidents place a higher value on their boxes than residents do, the Postal Service states:

Mr. Carlson testifies at great length about the high value of box service to him in his capacities as both a resident and nonresident boxholder. Tr. 8/2513-17, 2527-28, 3238-45, 3255.

Postal Service Initial Brief at 68.

Two problems exist with this statement. First, most of the citations are completely unrelated to the statement. At Tr. 8/2527, I answered an interrogatory about costs (DBP/DFC-1), and at Tr. 8/2528 I responded to an interrogatory seeking evidence that the Postal Service encourages customers to become nonresident boxholders and, thus, to join the group of boxholders who allegedly are causing problems for the Postal Service (DBP/DFC-2). At Tr. 8/3238-45 and 3255, I was cross-examining witness Raymond, not testifying.

Nonetheless, I did testify that I, personally, place a high value on box service per se. Tr. 8/2545 (USPS/DFC-4). Presently, however, I would place a higher value on a resident box in Emeryville than a less-convenient nonresident box in Berkeley, if the Postal Service fixed the service problems in Emeryville and lengthened the lobby hours. Id. Thus, the second problem with the implication of the Postal Service's use of my testimony is that I would not place a higher value on a nonresident box than a resident box if the service at the two offices were equal. I value my nonresident box higher than I would value a resident box only because of shortcomings of the resident box that are at least partially within the control of the Postal Service. See Carlson Initial Brief at section II.E. for a discussion of why some customers obtain nonresident boxes and why this information is critical for the Commission's evaluation of the effect of this proposed fee increase on the general public under § 3622(b)(4).

C. THE RECORD CONTAINS NO EVIDENCE TO SUPPORT THE POSTAL SERVICE'S CLAIM THAT NONRESIDENT BOXHOLDERS IMPOSE GREATER COSTS ON THE POSTAL SERVICE THAN RESIDENT BOXHOLDERS DO.

After reviewing the testimony of witnesses Landwehr and Needham, the Postal Service concluded that those witnesses' testimony provides "substantial record evidence that nonresident

customers place unusual, costly demands on the operation of post office box service." Postal Service Initial Brief at 68.

Section II.A.2. of my initial brief more than adequately explains that the Postal Service has produced virtually no evidence to demonstrate, on a nationwide basis, that nonresident boxholders impose greater costs on the Postal Service than resident boxholders. Nonetheless, two comments are in order.

First, the Postal Service cites witness Needham's testimony to explain how the issue of nonresident boxholders supposedly arose and why the information was presented in this case via witness Landwehr's qualitative descriptions of four post offices. Postal Service Initial Brief at 66-67. While witness Needham's testimony might suggest that problems with nonresident boxholders are well known, the Commission must consider that the Postal Service presumably selected the most reliable of its anecdotal evidence for this case. As a result, we received witness Landwehr's testimony, which contained no reliable, scientific studies, and which witness Landwehr admitted on the witness stand was "valuable only to the extent that it describes the experiences of three atypical post offices." Tr. 3/493, lines 20-23. Moreover, in the Postal Service's own brief, the Postal Service admits that witness Landwehr is unable to project his knowledge of operational problems to all post offices; rather, he claims he can project his experience only to offices in border towns and affluent areas. Postal Service Initial Brief at 67. Thus, given that the Postal Service's best witness was unable to provide evidence that was useful for setting national policy, the Commission must disregard witness Needham's suggestion that problems with nonresident boxholders are well known in the Postal Service or that the Postal Service has properly evaluated the incidence of problem behavior between nonresidents and residents.

Second, the Postal Service notes that witness Needham "specifically agrees with witness Landwehr . . . that nonresident customers are more likely to cause overflow problems

and to require contact via costly long distance telephone.' Tr. 3/751, 753-54." Postal Service Initial Brief at 67-68. At one of these transcript cites, however, witness Needham also admitted that she has no studies with which to back up her claim. Tr. 3/751, lines 1-5. Witness Needham then proceeded to demonstrate her faulty logic and, thus, the unreliability of any of her conclusions. See Tr. 3/751, lines 10-18. In addition, witness Landwehr admitted on the witness stand that box accumulations are not a problem at most post offices. Carlson Initial Brief at 7.

D. ADDITIONAL FLAWS IN THE POSTAL SERVICE'S REQUEST ARE REVEALED IN THE POSTAL SERVICE'S ARGUMENT THAT THE FAIRNESS AND EQUITY OF THE NONRESIDENT FEE "SHOULD BE EVALUATED IN TERMS OF ITS IMPACT UPON GROUPS OF BOXHOLDERS, NOT INDIVIDUALS, BECAUSE BOX FEES ARE NATIONAL IN SCOPE AND MUST BE ADMINISTERED BY POST OFFICES ACROSS THE COUNTRY."

In its only--albeit tacit--acknowledgement of the problems with the nonresident fee that emerged during cross-examination and in participant testimony, the Postal Service argues that the fairness and equity of the nonresident fee "should be evaluated in terms of its impact upon groups of boxholders, not individuals, because box fees are national in scope and must be administered by post offices across the country." Postal Service Initial Brief at 69. Four problems with this statement exist.

First, since box fees are national in scope, Postal Service testimony that focuses only on admittedly atypical post offices hardly is valid for formulating national policy. See Tr. 3/486 at lines 8-25 and Tr. 3/487 at 1-2; see also Postal Service Initial Brief at 67; and see also section II.B., supra.

Second, assuming that the effect of fees on individuals should be disregarded, one simply can generalize on my testimony about variations in service and lobby hours and realize the devastating unfairness and inequity that the nonresident fee would cause. See generally Carlson Initial Brief at 25-30 (section II.E.). For example, the Postal Service's own survey

revealing that approximately 42 percent of post offices offer 24-hour access to box lobbies, while 58 percent restrict hours of access, indicates that thousands or millions of people would be affected by the proposed nonresident fee if they select their post-office location based on hours of access to their box. See USPS-T-4 at 12, Table 8B.

Third, the effect on individuals is a relevant consideration. The nonresident fee would represent the first example of a fee--especially a fee as large as \$36--that was based not on costs but rather solely on which side of a ZIP Code boundary a person happened to live. Witness Raymond admitted that it is "typical" to find customers on either side of a line. Tr. 8/3301 at lines 24-25 and Tr. 8/3302, lines 1-12. Since a significant number of people would be harmed by the arbitrary nature with which this fee would be applied, the Commission quite properly should consider the effect on individuals and reject the fee based on this unfairness.

The Postal Service cites Group I and Group II fees as a parallel example of fees that are based on ZIP Codes. Postal Service Initial Brief at 69. The problem is, the Postal Service seeks in this case to abandon the Group I/Group II distinction, or at least the fee differential, because "It is not fair and equitable for one office to charge five times as much for the equivalent service." USPS-T-7 at 31, lines 13-14; Postal Service Initial Brief at 55-56. If the nonresident fee resembles the Group I/Group II distinction, and if the Group I/Group II distinction is not fair and equitable, the nonresident fee is not fair and equitable, either.

Fourth, the Commission has no evidence with which to follow the Postal Service's suggestion to evaluate the effect of the proposed nonresident fee on groups of boxholders because the Postal Service has failed to provide any reliable evidence explaining why customers obtain nonresident boxes. See Carlson Initial Brief at 25-30 (section II.E.).

III. RETURN RECEIPT

- A. DESPITE THE POSTAL SERVICE'S CLAIM THAT THE PROPOSED RECLASSIFICATION AND FEE INCREASE FOR RETURN RECEIPT WOULD CHARGE CUSTOMERS AN ADDITIONAL 40 CENTS FOR A SERVICE ENHANCEMENT, THE RECORD REVEALS THAT THIS SERVICE ENHANCEMENT IS NOT WORTH 40 CENTS TO CUSTOMERS.**

The Postal Service proposes to eliminate the basic return-receipt option, a receipt showing to whom and date delivered, with an enhanced service, a receipt showing to whom, date delivered, and address (if different). USPS-T-8 at 74, Table XIX. For this service enhancement, the Postal Service proposes to raise the fee by 40 cents. Id.

In its initial brief, the Postal Service completely ignores the fact that customers overwhelmingly have signalled that this service enhancement is not worth 40 cents to them. As I explained in my initial brief, the fee for the basic service currently is \$1.10, while an equivalent version of the proposed service is available for \$1.50. See Carlson Initial Brief at 39-40 (section IV.A.1.). Presently, by electing to purchase basic service, over 90 percent of customers have determined that the address information is not worth 40 cents to them. See Tr. 4/1100-01 (OCA/USPS-T8-26). The Postal Service has not introduced any evidence to indicate that the free market is not functioning properly or that consumers are not making informed decisions. See Carlson Initial Brief at 39-40. Thus, this fee increase cannot be justified based on value.

- B. COST DATA DO NOT PROVIDE JUSTIFICATION FOR THE FEE INCREASE.**

The cost data reveal that the enhanced return-receipt service would increase the Postal Service's costs by approximately 0.27 cents per piece. Tr. 5/1706-08 (OCA-T-400 at 17-19). The Postal Service probably would recover this small cost increase because, as it argues in its brief, better "address hygiene" would "reduce[] postal operating costs." Postal Service

Initial Brief at 90. Therefore, if the Commission approves this reclassification,³ it should not approve the fee increase.

C. THE RECORD DOES NOT FULLY SUPPORT THE POSTAL SERVICE'S CLAIM OF A "SINCERE DETERMINATION TO IMPROVE RETURN RECEIPT SERVICE," NOR IS THIS DETERMINATION LIKELY TO BE EFFECTIVE.

In support of its 40-cent fee increase for return receipt, the Postal Service argues that the record "establishes the Postal Service's sincere determination to improve return receipt service." Postal Service Initial Brief at 92. The record generally does not support the Postal Service's assertion, nor does it offer much hope of success.

The Postal Service cites an August 1, 1996, letter from Headquarters to district managers and a recent announcement in Postal Bulletin as evidence of its determination to improve return-receipt service. Id. These communications certainly are sincere attempts to improve service.

However, other evidence exists. As I explained in my brief, the Postal Service dismissed an implicit suggestion from David Popkin that would have provided more-reliable information for customers of the Postal Service's proposed new return-receipt service. Carlson Initial Brief at 40-42 (section IV.A.3.). Instead, as the service presently would be configured, a customer who received a return receipt without new-address information filled in would not know for certain that the address had not changed because the delivery employee might simply have failed to enter the information. Mr. Popkin's suggestion would have added a box for the delivery employee affirmatively to check to indicate that the address had not changed. Witness Needham dismissed his suggestion without a satisfactory explanation. DBP/USPS-T1-8; see also Carlson Initial Brief at 41.

³I argued in my brief that the reclassification should be approved without the fee increase. Carlson Initial Brief at 43 (section IV.A.4).

Moreover, the record indicates that a "large percentage" of the problems with return-receipt service results from "current delivery arrangements with large volume delivery points, including government agencies," whereby the Postal Service hands over "accountable mail to be signed for at a 'later', more convenient time." Tr. 4/1306 (Attachment 1 to DBP/USPS-T1-3). These practices conflict with the regulations and the purpose of return-receipt service--to provide the mailer with an independent confirmation of delivery and date of delivery. See DBP/USPS-T1-1(b)-(c). Yet Attachment 1, the letter that the Postal Service cites as evidence of its "sincere determination to improve return receipt service," nevertheless allows these arrangements to continue: "Long standing, unofficial arrangements that promote exceptions to stated procedures for 'convenience' need to be reviewed and voided if necessary" [emphasis added]." Postal Service Initial Brief at 92; Tr. 4/1307. If the Postal Service were committed to improving return-receipt service, the Postal Service seemingly would require these arrangements to be terminated, especially since they are responsible for a "large percentage" of the problems with return receipt. Tr. 4/1306. The letter also fails to offer any promise of follow-up or audits of procedures in the field. Until the Postal Service takes stronger steps to stop these improper procedures, the Postal Service's "sincere determination to improve return receipt service" likely will be ineffective. Postal Service Initial Brief at 92.

Although the Postal Service cites its announcement in Postal Bulletin as evidence that the Postal Service is making a "sincere" effort to improve return-receipt service, in reality the announcement makes no mention of the "arrangements" described in the preceding paragraph that the Postal Service admits are responsible for a large percentage of the problems with return-receipt service. Postal Service Initial Brief at 92; Tr. 4/1306. While the announcement in Postal Bulletin may be sincere, it is

not likely to be effective since it failed to address the main source of the problems with return-receipt service.

IV. POSTAL CARDS

A. THE POSTAL SERVICE'S PROPOSED TWO-CENT FEE INCREASE FOR POSTAL CARDS IS NOT LOGICALLY SOUND.

The Postal Service proposes a classification change to rename postal cards as "stamped cards." USPS-T-8 at 94-95. Along with the classification change, the Postal Service requests a two-cent fee to cover the manufacturing costs for postal cards. Id. at 95.

1. A logically sound proposal would not double-charge postal-card users for the manufacturing costs of the cards.

The Postal Service proposes to recover the manufacturing costs of postal cards by adding a two-cent fee for postal cards. However, GPO manufacturing costs already are attributed to the rate for post cards, so customers who purchase postal cards or mail post cards are compensating the Postal Service for the manufacturing costs of postal cards. Tr. 5/1711 (OCA-T-400 at 22, lines 7-8); Tr. 2/251 (OCA/USPS-T5-10); Carlson Initial Brief at 44 (section V.A.). The Postal Service ignores the fact that an additional two-cent fee clearly would be a double recovery.

2. Consistent with the Postal Service's argument, the rate for postal cards should be lowered to 10 cents.

The Postal Service explains that the two-cent fee would ensure that "postal card users, rather than all Postal and Postcard Subclass users, bear the costs attributable to the manufacture of postal cards." Postal Service Initial Brief at 122. The Postal Service's goal makes good economic sense. However, if postal-card users are to bear the sole burden for the manufacturing costs of postal cards, the rate for postal cards

should be set so that postal-card users pay only for the processing costs of postal cards and not all post cards.

According to witness Patelunas, the per-piece processing cost for postal cards is 7.5 cents, while the per-piece cost for private cards is 16.2 cents. USPS-T-5C at 10; Tr. 5/1711, lines 20-22 (OCA-T-400 at 22). This processing-cost differential exists because postal cards are designed in a size and shape for automation compatibility. Tr. 2/252 (OCA/USPS-T5-11). The manufacturing cost for postal cards is 1.161 cents. Response of United States Postal Service Witness Needham to Questions Posed During Hearings Conducted on September 11, 1996 (filed November 26, 1996). Therefore, the total cost for postal cards is 8.661 cents (7.5 cents plus 1.161 cents). A rate of 10 cents for postal cards would provide a reasonable 115 percent cost coverage. This new rate would properly reward postal-card customers for using a type of post card that is more automation-compatible than the typical private post card. It also would eliminate the inflated rate that postal-card users must pay to subsidize users of more-expensive-to-process private post cards.

The rate for post cards would be adjusted so that it would not be dragged down by the lower processing cost of postal cards. I do not have ready access to the information necessary to make a final calculation, so I will defer to the Commission to determine the proper new rate for private post cards.

To summarize regarding postal cards, the subject of this case is classification reform. The Postal Service apparently supports postal rates and fees that more accurately reflect the true costs of providing the service; indeed, this position was the primary premise of earlier phases of classification reform. Therefore, the Commission should capitalize on this opportunity for classification reform by lowering the rate for postal cards

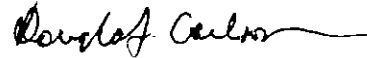
to reflect the lower processing cost of postal cards.⁴ The revised rate for postal cards would be 10 cents. The rate for private post cards would be adjusted as well.

On the other hand, if the Commission elects not to lower the rate for postal cards, it certainly should reject the Postal Service's proposal to require only postal-card users to pay the manufacturing costs of postal cards, since postal cards already are significantly subsidizing private post cards. Requiring all post-card users to pay for the manufacturing costs of postal cards at least somewhat reduces the unfairness that exists in the current rate structure, which collapses two types of mail, whose processing costs differ by 8.7 cents, into one 20-cent rate.

⁴The Commission should, of course, include in that rate the manufacturing cost of postal cards.

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the required participants of record in accordance with section 12 of the Rules of Practice* and section 3(B)(3) of the Special Rules of Practice.



DOUGLAS F. CARLSON

January 21, 1997
Emeryville, California

*On December 30, 1996, I mailed a letter to 21 persons on the service list, asking if they would be willing to waive their right to receive a hard copy of my initial brief and reply brief, in order to allow me to reduce duplicating and mailing expenses. I have filed a copy of the letter in LR-DFC-2. LR-DFC-2 also contains photocopies of the reply post cards I received from the persons who did waive their right.

Therefore, I have not served hard copies of this brief to those parties who voluntarily waived their right to receive it.